THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.9392 of 1999

Dated : 25.04.2007

Between:

Smt.Jakkampudi Nagarathnamma W/o Duba Raju

… **PETITIONER**

And:

The Commissioner of Survey and Settlements,
Government of Andhra Pradesh, Hyderabad
and others.

….**RESPONDENTS**

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.9392 of 1999

ORDER:

This writ petition has a chequered history. Petitioner is litigating right from 1973 for establishing her rights in respect of an extent of 6.44 hectares of land in Sy.No.50/1 situated at Peruru village of Nagur Taluk. Originally, petitioner's father by name T.Satyanarayana, used to attend the affairs of inferior proprietor at Nagur Estate. He acquired an extent of Acs.18.69 cents of land in Sy.No.50, from the said estate during the year 1957, and the name of the petitioner was also entered into the revenue records. After the demise of her father, petitioner alleged to have been granted a patta, bearing Patta No.48, in respect of the said land and she claims to have been in possession and enjoyment of the said land since then and paying land revenue regularly to the Government.

While the matter stood thus, Mahals were abolished under Andhra Pradesh Mahals (Abolition and Conversion into Ryotwari)

Regulation, 1969 (for short “Regulation 1/1969). In the light of the same, the Settlement Officer, Rajahmundry, took up suo motu enquiry in respect of granting pattas. In that connection, petitioner also filed an application for grant of patta in respect of the land in question, and after enquiry, the Settlement Officer granted patta in favour of the petitioner in respect of the said land, vide orders dated 27.11.1974. Questioning the same, the second respondent preferred Appeal No.1 of 1977 before the Director of Settlements, who allowed the appeal and cancelled the patta granted in favour of the petitioner. Against the said order, petitioner preferred second appeal before the first respondent, and the first respondent, by an order dated 27.04.198,1 partly allowed the appeal and set aside the order of the Director of Settlements and remanded the matter to the Director of Settlements for deciding the issue on merits after issuing notices to all the parties concerned. Upon remand, the Director of Settlements, by an order dated 28.11.1981, allowed the appeal preferred by the Collector. Challenging the same, petitioner preferred second appeal before the first respondent, and as there was no representation on either side, the first respondent dismissed the appeal confirming the order of Director of Settlements. Questioning the same, petitioner filed W.P.No.9212 of 1983 before this Court. This Court, by an order dated 06.11.1987, allowed the said writ petition setting aside the order of the first respondent and directing the first respondent to consider the matter afresh after giving opportunity to both the parties. Thereafter, the first respondent, after giving opportunity to both the parties and hearing them, passed an order dated 27.08.1996 dismissing the appeal. Hence, this writ petition.

Despite service of notices, respondents have not chosen to file any counter.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

Petitioner claims that she was granted patta in respect of the land

in question prior to abolition of Mahals. Of course, the said patta is not filed either before the original authority or appellate authority. However, there is certain documentary evidence, such as, the letter issued by the Inferior Proprietor dated 31.12.1992 and Xerox copies of palamani extracts for patta No.48 for the faslies 1372 to 1380. Sections 5,6 and 7 of Regulation 1 of 1969 states as to who are entitled for grant of ryotwari patta. Petitioner's case falls under Section 7 of Regulation 1 of 1969, which states that every proprietor in a mahal shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of home-farms, which have been under direct cultivation by himself or by his own or hired servants in the ordinary course, for a continuous period of not less than eight years immediately before the notified date.

From a perusal of the Xerox copies of palamani extracts produced by the petitioner for the faslies 1372 to 1380, it is clear that the petitioner appears to be in possession of the land in question. But on a perusal of the order of the primary authority, it is astonishing to note that he has not assigned any reason as to how and why he came to the conclusion that the petitioner is entitled for a ryotwari patta. The relevant portion of the order of the primary authority, dated 27.11.1994, reads as under:

> "Having enquired into the case and after perusal of the relevant records and considering the evidence produced before me, it is hereby ordered that Smt.Jakkampudi Nagaratnamma is entitled under Section 8 of the Andhra Pradesh Regulation 1 of 1969 for a ryotwari patta for the lands shown in schedule."

As stated above, the primary authority has not assigned any reasons for his approval for granting ryotwari patta in favour of the petitioner. No doubt the appellate authority set aside the order of the primary authority and directed the primary authority to hold a detailed enquiry and arrive at a conclusion as to whether the petitioner is entitled for patta or not. Further, though petitioner failed to produce

patta No.48 in Sy.No.50, in my considered view, the records relating to the said patta will definitely be available in the office of the primary authority, and the primary authority should have summoned the said record to come to just conclusion as to whether the said patta is in favour of the petitioner or not. All these factors are not considered by the authorities. No doubt, the decision taken by the appellate authorities rejecting the claim of the petitioner though is justified as the said documentary evidence produced by the petitioner is not sufficient, but in view of the fact that the primary authority has not conducted any enquiry in arriving at the said conclusion and even the appellate authorities also have not gone into this aspect in detail, this Court is constrained to remand the matter to the original authority i.e, the Settlement Officer, Rajahmundry, for consideration of the matter in detail. It is made clear that if the Settlement Officer wants to verify the record, he may call for the same or direct the petitioner to produce the patta granted to her and other relevant documentary evidence establishing her possession for a period of eight years prior to 1969.

With the above direction, the writ petition is disposed of and the order passed by the first respondent, dated 27.08.1996 is hereby set aside.

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25.04.2007

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